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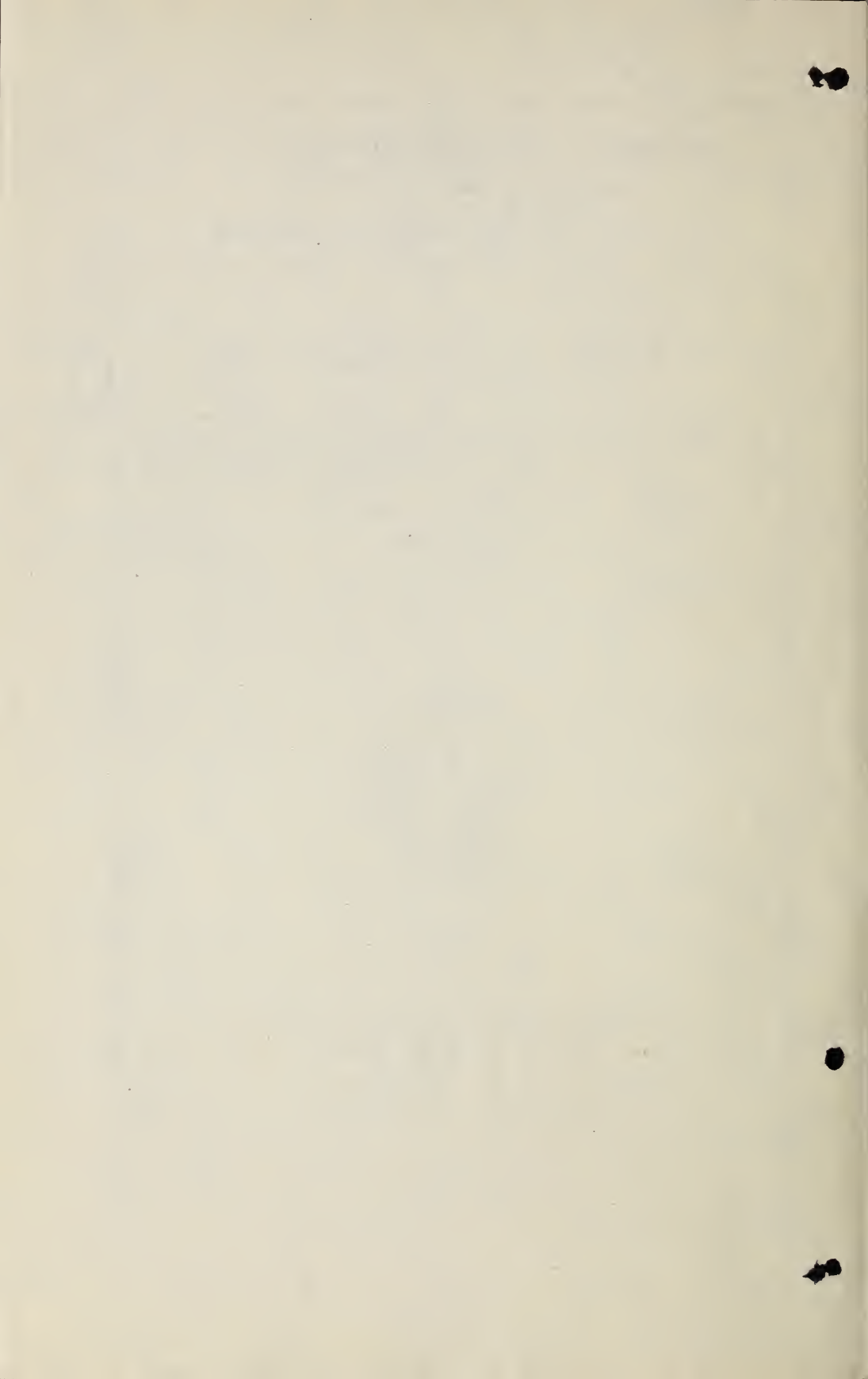
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UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF AGRICULTURAL ECONOMICS

Service and Regulatory Announcements No. 149, Revised

RULES AND REGULATIONS
OF THE
SECRETARY OF AGRICULTURE
UNDER THE TOBACCO INSPECTION ACT OF
AUGUST 23, 1935

(49 Stat., 731)





United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 149, REVISED

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE TOBACCO INSPECTION ACT

(REVISED NOVEMBER 1937)

Under an Act of Congress (49 Stat., 731) Approved August 23, 1935

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Tobacco Inspection Act, approved August 23, 1935 (49 Stat., 731), I, H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following rules and regulations to be in force and effect on and after January 2, 1936, and until amended or superseded by rules and regulations hereafter prescribed and promulgated under said act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this the 17th day of December 1935.



H A Wallace
Secretary of Agriculture.

REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE TOBACCO INSPECTION ACT

Regulation 1. Definitions

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. For the purposes of these regulations, unless the context otherwise require, the following terms shall be construed respectively to mean—

Paragraph 1. The act.—The Tobacco Inspection Act approved August 23, 1935, (49 Stat. 731).

Par. 2. Secretary.—The Secretary or Acting Secretary of Agriculture of the United States.

Par. 3. Department.—The United States Department of Agriculture.

Par. 4. Bureau.—The Bureau of Agricultural Economics of the United States Department of Agriculture.

Par. 5. Chief of Bureau.—Chief of Bureau of Agricultural Economics.

Par. 6. Person.—Individual, association, partnership, or corporation.

Par. 7. (a) Inspector.—Person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

(b) Sampler.—Person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(c) Weigher.—Person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

(d) Appeal Inspector.—An inspector or other person designated or authorized by the Bureau to hear appeals under the act and these regulations.

Par. 8. Tobacco.—Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured and the

time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

Par. 9. Official standards.—Standard grades of tobacco promulgated by the Secretary under the act.

Par. 10. Tentative standards.—Grades of tobacco authorized by the Chief of Bureau to be used pending promulgation by the Secretary.

Par. 11. Office of inspection.—A field office of the tobacco inspection service of the Bureau.

Par. 12. Certificate.—A certificate issued under the act and these regulations.

Par. 13. Interested party.—The owner or other financially interested person; including the warehouseman, commission merchant, association, and other person who has the tobacco in his custody for sale; the authorized agent of the owner; and persons to whom or by whom the tobacco has been sold on the basis of a certificate issued, or sample prepared, under the act, but not including a person who is negotiating for its purchase.

Par. 14. Regulations.—Rules and regulations of the Secretary under the act.

Par. 15. Package.—A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

Par. 16. Lot.—A pile, basket, bulk, package, or other definite unit.

Par. 17. Identification number.—A number or a combination of letters and numbers in a design or mark approved by the Chief of Bureau, stamped, printed, or stenciled on a lot of tobacco or attached thereto by an inspector, sampler, or weigher for the purpose of identifying the lot covered by a certificate issued under the act.

Par. 18. Official sample.—A sample selected, tagged, and sealed by an inspector or sampler under the act.

Par. 19. Sample seal.—A seal approved by the Chief of Bureau for sealing official samples.

Par. 20. Lot seal.—A seal approved by the Chief of Bureau for sealing lots of tobacco certificated under the act.

Par. 21. Auction market.—A place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

Par. 22. Designated market.—An auction market designated by the Secretary, under section 5 of the act.

Par. 23. Public notice.—A proclamation by the Secretary under the act (a) stating that an auction market is designated under the act; (b) giving notice of such fact; (c) specifying a date when the requirement of inspection and certification under the act shall become effective; and (d) released to the press, mailed to the tobacco board of trade or warehouse association of such market, and mailed to the postmaster at such market for posting.

Par. 24. Permissive inspection.—Inspection authorized under section 6 of the act.

Par. 25. Mandatory inspection.—Inspection authorized or required under section 5 of the act.

Regulation 2. Administration

SECTION 1. The Chief of Bureau is charged with the supervision of the performance of all duties arising in the administration of the act.

Regulation 3. Permissive Inspection

SECTION 1. *Permissive inspection.*—Permissive inspection consists of inspecting, including sampling and weighing, and certificating tobacco upon the request of an interested party. Upon such request the Chief of Bureau may authorize and require an inspector, as a part of his duties, to supervise the preparation of tobacco to be inspected under the act, including the sorting, handling, conditioning, or packing of such tobacco.

SEC. 2. *Paragraph 1. (a) Where inspection is offered.*—Tobacco may be inspected, sampled, or weighed for the purposes of the act, upon request of an interested party, at points indicated in parts (b), (c), and (d) of this section whenever official inspectors, samplers, or weighers are available and the tobacco is offered under conditions that permit of its proper examination.

(b) *Shipping points.*—Points at which tobacco enters, or is offered for, interstate or foreign shipment, including packing houses, prizeeries, warehouses, and other places where tobacco is handled, packed, or stored.

(c) *Official stations.*—The stations or the headquarters of inspectors, samplers, or weighers. An official station may be any town, city, or place having a market, receiving station, or other facilities for handling, packing, or storing tobacco and where there is a sufficient volume of work to justify the stationing of an inspector, sampler, or weigher.

(d) *Other points.*—Points near an official station, to the extent permitted by the time of the inspector, sampler, or weigher at such official station.

Par. 2. Who may obtain inspection.—Inspection, sampling, or weighing as described in section 1 of this regulation may be requested by an interested party, or his authorized agent, by filing an application in accordance with paragraphs 3 and 4 of this section.

Par. 3. How to make application.—Application for inspection, sampling, or weighing of tobacco shall be made to the Bureau, the office of inspection, or as the case may be, to an official inspector, sampler, or weigher. It may be made orally or in writing and delivered in person, by mail, by telegraph, or otherwise. If made orally, the Bureau or the official receiving it may require a written confirmation.

Par. 4. Form of application.—Application for inspection, sampling, or weighing of tobacco shall include the following information: (a) The date of the application; (b) the designation of the tobacco and the crop year of its production; (c) the name and post-office address of the applicant and of the person, if any, making the application as agent; (d) the financial interest of the applicant in the tobacco; (e) the exact nature of the service desired as (1) inspection, (2) inspection and sealing, (3) sampling, or (4) weighing; (f) a statement that the tobacco (1) is in commerce, as defined in the act, or (2) is to be inspected, sampled, or weighed in connection with its entering such commerce; (g) if the tobacco has been officially inspected, sampled, or weighed previously, the application must have the previous certificate attached, or show with respect to such previous service (1) by whom, (2) the date, (3) previous determinations as certificated; (h) the reason for requesting reinspection, resampling, or reweighing; and (i) such other necessary information as the Chief of Bureau may require.

Par. 5. When application deemed filed.—An application shall be deemed filed when delivered to the Bureau, the office of inspection, or according to the nature of the service requested, to an official inspector, sampler, or weigher. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

Par. 6. When application may be rejected.—An application may be rejected (1) for noncompliance with the act or these regulations, or (2) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or these regulations shall be paid by the applicant as provided in regulation 7, section 1, paragraph 4.

Par. 7. When application may be withdrawn.—An application may be withdrawn at any time before the requested service is rendered upon payment of expenses incurred in connection therewith as provided in regulation 7, section 1, paragraph 4.

Par. 8. Authority of agent.—Proof of authority of any person making an application as agent may be required in the discretion of the official receiving the application.

Par. 9. Accessibility of tobacco.—All tobacco to be inspected, sampled, or weighed upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade or other characteristics or for drawing of samples. In the case of tobacco in packages, the coverings shall be removed by the applicant in such manner as may be prescribed by the inspector, sampler, or weigher.

Par. 10. (a) Certificates.—Each certificate issued under this regulation shall (1) show that it was issued under the Tobacco Inspection Act; (2) be in a form approved for the purpose by the Chief of Bureau; and (3) embody within its written or printed terms, with respect to the particular kind of service, all applicable information required by parts (b), (c), (d), (e), and (f) of this paragraph. Each certificate may also contain any information, not inconsistent with the act and these regulations, as may be approved or required by the Chief of Bureau. The Chief of Bureau may, in his discretion, specify or limit the period in which a certificate shall be valid.

(b) *Inspection certificate.*—Each inspection certificate shall show (1) the caption "Tobacco Inspection Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification

number and private identification marks on the lot; (5) the date and number of the official sample, if any; (6) the location of the tobacco at the time of inspection or sampling; (7) the date of inspection; (8) the type and grade of the tobacco; (9) the kind of lot or package; and (10) the signature of the official inspector; also such additional information as may be required by the Chief of Bureau. An inspection certificate covering a package of tobacco shall also show the form and condition of the tobacco.

(c) *Sample inspection certificate.*—Each sample inspection certificate shall carry the caption "Tobacco Sample Inspection Certificate" and shall otherwise comply with the requirements of an inspection certificate, and in addition include a clearly worded statement that the type, grade, or other tobacco characteristics, shown therein, apply only to the tobacco contained in the sample inspected.

(d) *Weight certificate.*—Each weight certificate shall show (1) the caption "Tobacco Weight Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number or private identification marks on the lot; (5) the location of the tobacco at the time of weighing; (6) the date of weighing; (7) the weight of each lot; (8) the kind of lot or package; and (9) the signature of the official weigher.

(e) *Official sample tag.*—Each official sample drawn and prepared shall have attached thereto, a certificate or tag showing (1) the caption "Official Tobacco Sample"; (2) the date of sampling; (3) the location of the tobacco at the time of sampling; (4) the kind of lot or package; (5) the condition of the tobacco; (6) the identification number and private identification marks on the lot; and (7) when a lot is found to be damaged, nested, or in doubtful keeping order, a statement of such fact.

(f) *Combination certificate.*—A combination certificate of inspection and weight may be issued under the act, if such certificate carries the caption "Tobacco Inspection and Weight Certificate" and otherwise meets all of the requirements of parts (b) and (d) of this paragraph.

Par. 11. Disposition of certificates.—When a certificate of inspection or weight is issued under the act upon the request of an interested party, the original certificate and two copies shall be delivered or mailed to the applicant or a person designated by him, and one copy shall be mailed or delivered to the Bureau or local office of inspection. Charges may be made for additional copies furnished the interested party upon request as provided in regulation 7, section 4.

Par. 12. Advance information.—Upon the request of an applicant for whom tobacco has been inspected, sampled, or weighed and certificated under the act, all or any part of the contents of such certificate may be telegraphed or telephoned to him at his expense. Information relative to grade or other determinations contained or to be contained in a certificate shall not be divulged by an inspector, sampler, or weigher to any person other than an interested party or his agent without the approval of the Chief of Bureau, and such information shall not be furnished an interested party before the certificate is issued.

Par. 13. Weighing apparatus.—A scale used for determination of weight to be certificated under the act shall be subject to examination for accuracy according to the regulations of the State or municipality in which located. No disapproved scale shall be used to determine weight of tobacco for the purposes of the act and these regulations.

Regulation 4. Mandatory Inspection

SECTION 1. Mandatory inspection.—Mandatory inspection consists of inspecting and certifying tobacco under the act on designated markets before it is offered for sale at auction and the announcement of certified grades in the auction.

SEC. 2. Where mandatory inspection is required.—All tobacco offered for sale at auction on a market designated in accordance with the act and section 3 of this regulation shall be inspected and certificated under the act upon the date specified by the Secretary in public notice of such designation, and thereafter, except when the requirement of such inspection and certification is temporarily suspended by the Chief of Bureau in accordance with the act and these regulations.

SEC. 3. Designation of markets.—An auction market where tobacco bought or sold thereon at auction or the products customarily manufactured therefrom

move in commerce may be designated under the act by the Secretary after the Chief of Bureau has advised the Secretary that two-thirds of the growers voting in the referendum held in accordance with section 4 of this regulation favored the designation of such market. When a market is designated by the Secretary, he shall give public notice of the fact and in such public notice he shall specify the date on which the requirement of inspection and certification of tobacco sold at auction on such market shall become effective. The Chief of Bureau may temporarily suspend the requirement of inspection and certification on a designated market when it is found impracticable to provide such service because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service.

SEC. 4. Growers' referendum—Paragraph 1. Method of conducting.—Any referendum held as provided in section 5 of the act shall be conducted by the Bureau in accordance with this section. The Chief of Bureau shall determine (a) the market or group of markets to be covered by a referendum; (b) when a referendum is to be held; and (c) the period during which growers, entitled to vote therein, may cast their ballots. When a referendum is held for a group of markets, the result of such referendum may be construed to apply either individually or collectively to such markets. Before holding a referendum, the Bureau shall establish from the records of the collectors of internal revenue for the preceding marketing season, or in the absence of such records then from such other reliable sources of information as are available, a list showing the names of all growers who are entitled to vote in the referendum, and from the list so established the eligibility of growers to vote in a referendum shall be determined by the Bureau: *Provided*, That if a grower, whose name appears on such lists for two or more markets selling the same class of tobacco, votes in one referendum for a market selling such class, he shall not be eligible to vote in a referendum for any other market selling such class.

Par. 2. Form of ballot.—Ballots to be used for voting in a referendum held under the act shall be in a form approved for the purpose by the Chief of Bureau.

Par. 3. Distribution of ballots.—Ballots to be used by growers in a referendum under the act may be distributed by mail or through representatives of the Bureau as the Chief of Bureau may select. The Chief of Bureau may establish and publish a list of voting places for the purpose of any referendum and distribute ballots therefrom. When ballots are not mailed directly to growers who are entitled to vote, insofar as their addresses are known, the Chief of Bureau shall announce the voting places at which ballots can be secured, and copies of such announcement shall be given to the press and mailed, for posting and distribution, to the post offices of the market or group of markets covered by the referendum and to post offices in the vicinity of such markets or group of markets. Any explanatory statement with reference to a referendum, provisions of the act and these regulations, or the operation and benefits of the services authorized by the act may be attached to or supplied with ballots.

Par. 4. Filing and tabulation of votes.—Each ballot, when filled in and signed by a grower entitled to vote in a referendum, shall be mailed or delivered by him as specified in the ballot. Persons authorized by the Chief of Bureau to receive votes in any referendum shall promptly file all votes received or collected by them with the Bureau. All ballots filed in a referendum shall be examined to verify the eligibility of the voter and the Chief of Bureau shall have compiled the result of the referendum and furnish the Secretary a statement showing whether or not two-thirds of the growers voting favored the designation of the market or group of markets covered by the referendum. In verifying votes, ballots which do not show the desire of the voter, or ballots which are defective or illegible, or ballots on which the signature or other identification does not correspond with the established list shall not be counted. The choice of any individual voter shall not be divulged by any official of the Bureau, except to the Secretary when requested. Votes, ballots, and other documents pertaining to a referendum shall be preserved in the Bureau for a period of 2 years from the closing date of such referendum, and may be destroyed thereafter.

SEC. 5. Accessibility of tobacco.—All tobacco subject to mandatory inspection on a designated market shall be made readily accessible for inspection.

SEC. 6. Mandatory inspection ticket.—A mandatory inspection ticket shall consist of an inspection certificate made and issued in combination with an auction warehouse ticket in a form approved by the Chief of Bureau.

SEC. 7. *Warehousemen to provide tickets.*—A mandatory inspection ticket, in the form required by section 6 of this regulation, shall be provided by each auction warehouseman on a designated market to cover each lot of tobacco offered for sale at auction by him on such market.

SEC. 8. *Changes or alterations.*—No change or alteration shall be made, in the weight or other identification of the lot, on a mandatory inspection ticket after the certification of type and grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

SEC. 9. *Disposition of ticket.*—One copy of the mandatory inspection ticket shall be attached to, or placed on, the tobacco certificated as a further identification of the lot and all copies of such ticket shall become null and void when such identifying copy is removed from the lot. One copy of such ticket, showing (1) the certification of type and grade; (2) the weight and other identification; and (3) the details of the sale at auction, shall be delivered by the warehouseman to the Bureau or the local head inspector.

SEC. 10. *Announcing grades.*—The grade of each lot of tobacco as certified by an official inspector on a designated market shall be clearly announced at the time the lot is offered in the auction.

Regulation 5. Appeal

SECTION 1. *When appeal may be taken.*—Whenever an interested party believes that a certificate issued or a sample prepared under the act is not correct he may file an appeal: *Provided*, That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper reinspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

SEC. 2. *How to obtain an appeal.*—An appeal shall be made in writing, and filed with the Bureau or the office of inspection for the type of tobacco involved. Such appeal shall show: (a) the date; (b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Chief of Bureau. The appeal shall be accompanied by the certificate or sample from which the appeal is taken, unless such requirement is waived by the Bureau when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

SEC. 3. *Record of filing time.*—When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

SEC. 4. *When appeal may be refused.*—If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the act or these regulations have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Bureau; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in regulation 7, section 2, paragraph 2.

SEC. 5. *When appeal may be withdrawn.*—An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in regulation 7, section 2, paragraph 2.

SEC. 6. *Review or second inspection not an appeal.*—A review or investigation made in accordance with regulation 8, section 3, or a second inspection, sampling, or weighing made upon the request of an interested party for the purpose of securing new or later information when the correctness of an old certificate or sample is not questioned, shall not be considered an appeal.

SEC. 7. *Order in which made.*—Appeals shall be heard and passed upon, so far as practicable, in the order in which they are filed.

SEC. 8. *Who shall pass upon appeals.*—Appeals shall be passed upon by an appeal inspector designated for the purpose by the Chief of Bureau. When

authorized, by the Chief of Bureau, two or more appeal inspectors may jointly pass upon an appeal. The Bureau may authorize an inspector, supervising inspector, or other person to act as an appeal inspector, but no appeal inspector shall pass upon an appeal involving the correctness of a certificate issued or sample prepared by him.

SEC. 9. Appeal findings.—Immediately after an appeal has been heard and the tobacco involved therein has been reexamined, an appeal certificate shall be issued or an appeal sample prepared by the appeal inspector. Such certificate or sample shall show the finding of the appeal inspector and shall be labeled "Appeal Certificate" or "Appeal Sample", as the case may be, over the signature of the appeal inspector. An appeal certificate or sample shall supersede all other certificates or samples for the same lot of tobacco and shall refer specifically to the certificate or sample from which the appeal was made. In all other respects the provisions of these regulations relative to certificates or samples shall apply to an appeal certificate or sample. The findings of the appeal inspector as certificated shall be final, unless the Chief of Bureau shall direct a review of such findings.

SEC. 10. Superseded certificate or sample.—When superseded under these regulations by an appeal certificate or an appeal sample, such superseded certificate or sample shall become null and void and shall not thereafter be used to represent the tobacco described therein. If the original and the copies of the old certificate were not delivered to the appeal inspector for cancelation, the appeal inspector shall notify such persons or firms as he may consider necessary to prevent fraudulent use of any such null and void certificate.

Regulation 6. Inspectors, Samplers, and Weighers

SECTION 1. Who may be employed, licensed, or authorized.—Any person who is not financially interested directly or indirectly in merchandising tobacco, except as a grower or except in disposing of tobacco previously acquired, and who has demonstrated his competency may be employed, licensed, or authorized to inspect, sample, or weigh tobacco. Licenses issued by the Secretary shall be countersigned by a supervising official of the Bureau. Licenses to inspect or to sample shall specify the type or types of tobacco which the licensee is authorized to inspect or sample.

SEC. 2. Order of providing service.—When tobacco is to be inspected, sampled, or weighed upon request, such services shall be rendered as far as practicable in the order in which applications were received. In conducting mandatory inspection, the inspection shall start at the beginning of the "break" in the auction warehouse where the sale is scheduled to start and the inspection shall continue in the order of sale on each warehouse floor and from warehouse to warehouse.

SEC. 3. Certificate issuance.—A certificate shall be issued as soon as practicable after any tobacco has been inspected or weighed for the purpose of the act. A separate certificate shall be issued for each lot of tobacco inspected or weighed, except when a certificate covering two or more lots is specifically authorized by the Chief of Bureau. In case of a lost or destroyed certificate, a duplicate thereof may be issued under the same number, date, and name by an authorized supervising official. Any such duplicate certificate shall be plainly marked "Duplicate" above the signature of the supervising official who issued it.

SEC. 4. Inspection determinations.—The determination of type, grade, size, form, condition, or other tobacco characteristics shall be based upon a thorough examination of the lot of tobacco to be certificated or an official sample of such lot. The certification of a lot of tobacco shall be a true representation of the lot, or of the official sample, at the time of inspection.

SEC. 5. Method of sampling.—In sampling tobacco under the act, at least three breaks shall be made at different points in the lot, and in the discretion of the sampler as many more breaks shall be made as seem necessary to show the range of the entire lot. From the breaks so made tobacco to be used in the official sample shall be selected. The official sample shall, so far as practicable, include tobacco of each quality, color, length, and other characteristics found in the lot in such proportions as would truly represent the lot. In case a lot is found to be damaged, nested, or in doubtful keeping order, the official sample tag shall be so marked. Official sample tags shall be attached to the sample, in a manner prescribed by the Chief of Bureau, and shall be

sealed thereon with an official sample seal approved for the purpose by the Chief of Bureau.

SEC. 6. *Weight determinations.*—Daily before weighing any tobacco for the purposes of the act, a weigher shall verify the accuracy of the scales to be used by him. Except as may be otherwise specified by the Chief of Bureau, all weights certificated shall be within an accuracy of 1 pound.

SEC. 7. *Proper light.*—Tobacco shall not be inspected or sampled for the purposes of the act except when displayed in proper light for correct determination of grade or other characteristics of tobacco. No tobacco shall be inspected or sampled for the purposes of the act in the direct rays of the sun or by any artificial light which does not permit the inspector correctly to determine the grade or other characteristics of tobacco.

SEC. 8. *Suspension and termination.*—The license of an inspector, sampler, or weigher may be suspended, pending final action by the Secretary, by any official authorized to countersign licenses whenever he considers such action to be for the best interest of the service. The designation of an appeal inspector may be withdrawn at any time by the Bureau. Before the license of an inspector, sampler, or weigher is terminated or revoked pursuant to the act and these regulations, such appointee or licensee shall be furnished by the Secretary, or his designated representative, with a written statement specifying the charges, and within 7 days after his suspension, the licensee may file an appeal in writing with the Secretary supported by any evidence he may wish to offer in connection therewith.

Regulation 7. Fees and Charges

SECTION 1. Fees or charges for permissive inspection performed under the act shall be fixed and paid in accordance with this regulation.

Paragraph 1. For inspection.—Fees or charges for inspecting, sampling, weighing, or sealing, upon the request of any interested party, shall be fixed by the Chief of Bureau, in accordance with paragraphs 2, 3, and 4 of this section and in amounts which are deemed reasonable under the circumstances.

Par. 2. Under cooperative agreement.—Fees or charges for inspecting, sampling, weighing, or sealing, and supervision in connection therewith, under a cooperative agreement with other branches of the Government, State agencies, or other organizations or persons shall be in accordance with such agreement.

Par. 3. Direct service.—Fees or charges for inspecting, sampling, weighing, or sealing, when done independently by the Bureau, shall be fixed according to the nature of the service and the conditions under which the service is rendered. Charges may, in addition to a fee, include the expenses of the inspector, sampler, or weigher for travel and subsistence and other necessary expenses involved in rendering the service requested.

Par. 4. When application rejected or withdrawn.—When an application for inspection, sampling, or weighing is rejected in accordance with regulation 3, section 2, paragraph 6, or withdrawn in accordance with regulation 3, section 2, paragraph 7, the applicant may be required to pay a reasonable charge for the time used by an inspector, sampler, or weigher and other expenses incurred in connection with such application prior to its rejection or withdrawal.

SEC. 2. *Paragraph 1. For appeals.*—A charge of \$1 shall be made for each appeal filed under regulation 5 and the fee for an appeal inspection, sampling, or weighing shall equal the fee for the original inspection, sampling, or weighing from which the appeal is taken, plus any charges for travel or other expenses incurred in hearing the appeal: *Provided*, That when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector, the charge and fee shall be waived.

Par. 2. When appeal refused or withdrawn.—When an appeal is refused in accordance with regulation 5, section 4, or withdrawn in accordance with regulation 5, section 5, the appellant may be required to pay a reasonable charge for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

SEC. 3. *For demonstrations.*—Charges, not in excess of the cost thereof, as may be approved by the Chief of Bureau, may be made for demonstrations or samples when such demonstrations or samples are furnished upon request.

SEC. 4. *For certificates.*—A charge may be made, in the discretion of the Chief of Bureau, for copies of certificates other than those required to be

distributed in regulation 3, section 2, paragraph 11, and for the issuance of a duplicate certificate in accordance with regulation 6, section 3.

SEC. 5. *Payment of, how made.*—Fees and charges fixed in accordance with this regulation shall be paid by the applicant or person obtaining the service in accordance with the statement rendered by the Bureau. A deposit to cover all, or a part of, fees and charges for services to be rendered may be required by the Bureau. Fees for services rendered independently by the Bureau, shall be remitted by check or draft made payable to the United States Department of Agriculture.

Regulation 8. Miscellaneous

SECTION 1. *Publications.*—Publications under the act and these regulations shall be made in service and regulatory announcements of the Bureau and such other mediums as the Chief of Bureau may from time to time designate for the purpose.

SEC. 2. *Political activity.*—Persons employed, licensed, or authorized under the act are forbidden, during the period of their appointment, license, or authorization, to take any active part in political management or in political campaigns. Political activity in city, county, State, or national election, whether primary or regular, or in behalf of any party or candidate is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for terminating or withdrawing an appointment, license, or authorization.

SEC. 3. *Bureau investigations.*—An inspector, sampler, or weigher, when authorized by the Bureau, may of his own initiative, or upon the request of an interested party, review for the purpose of verification or confirmation any tobacco which he has certificated, and any supervising official may review the work of any inspector, sampler, or weigher: *Provided*, That such review shall not be made if the ownership of the tobacco involved has changed since the date of certification, unless there is intimation or evidence of deterioration or of irregularities or fraud in connection with the certification or sampling. When such review discloses an error in the certification, the inspector, sampler, or weigher concerned, or supervising official shall immediately correct the error by making an appropriate change in the certificate or by canceling the certificate and issuing a new certificate in lieu thereof. Any correction made on a certificate shall be initialed by the issuing official or by the supervising official. When a new certificate is issued for a lot of tobacco, the old certificate and copies thereof shall become null and void and shall not thereafter be used to represent the tobacco described therein.

SEC. 4. *Identification number.*—The Chief of Bureau may require the use of official identification numbers in connection with tobacco certificated or sampled under the act. When identification numbers are required, they shall be specified by the Chief of Bureau and shall be attached to, or stamped, printed, or stenciled on, the lots of tobacco certificated or sampled, in a manner specified by the Chief of Bureau.

THE TOBACCO INSPECTION ACT

[PUBLIC—No. 314—74TH CONGRESS]

[H. R. 8026]

AN ACT

To establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act—

(a) "Person" includes partnerships, associations, and corporations, as well as individuals.

(b) "Secretary" means the Secretary of Agriculture of the United States.

(c) "Inspector" means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

(d) "Sampler" means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(e) "Weigher" means any person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

(f) "Tobacco" means tobacco in its unmanufactured form.

(g) "Auction market" means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) "Commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this Act (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

SEC. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

SEC. 3. That the Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this Act whenever, in his judgment, such action is advisable.

SEC. 4. That the Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

SEC. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

SEC. 6. That the Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons, whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this Act, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this Act from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

Sec. 7. That the Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this Act. Each inspection certificate issued under this Act, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

Sec. 8. That warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this Act. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

Sec. 9. That the Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

Sec. 10. It shall be unlawful—

(a) For any person to use the words "United States", "Government", or "Federal", or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this Act.

(c) For any person, not an authorized inspector under this Act, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States thereof which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this Act, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this Act knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this Act, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler, or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this Act: *Provided, however*, That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this Act.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this Act, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this Act; or knowingly to have made any false representation concerning tobacco inspected under this Act; or knowing that tobacco is to be offered for inspection or sampling under this Act to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official

sample of tobacco has been so altered, thereafter to represent such sample as an official sample.

SEC. 11. The Secretary is authorized to publish the facts regarding any violation of this Act.

SEC. 12. That any person violating any provision of sections 5 and 10 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

SEC. 13. In construing and enforcing the provisions of this Act; the act, omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person.

SEC. 14. That the Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this Act and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed hereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of the Classification Act of 1923, as amended. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this Act.

SEC. 15. That in carrying on the work herein authorized, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpoena, the proper United States district court shall have power to compel obedience thereto.

SEC. 16. That if any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. That any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this Act may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

SEC. 18. That this Act may be cited as "The Tobacco Inspection Act."

Approved, August 23, 1935.

